

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY*In the Matter of*

Implementation of the Pay Telephone
Reclassification and Compensation Provisions
of the Telecommunications Act of 1996

CC Docket No. 96-128

Requests by SBC, Southern New England
Telephone, and GTE to Extend Waiver of
Coding Digit Requirement

File No. NSD-L-98-147

American Public Communications Council
Motion for Deferral of the Effective Date of
the Payphone order's Call Tracking
Verification Requirement

File No. NSD-L-98-148

**COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA") hereby opposes the requests by SBC, SNET, and GTE to extend the Common Carrier Bureau's waiver of the coding digit requirement ("LEC requests") and the motion by APCC to defer the effective date of the call tracking verification requirement ("APCC motion").¹ In the course of disposing of the LEC requests and the APCC motion, the Commission should also clarify that IXC's are prohibited

¹ See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order, DA 98-2644 (Com. Car. Bur., rel. Dec. 31, 1998) ("December 31st Order").

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from collecting per-call compensation from end users—including paging carriers—where such compensation is not owed to the PSPs.

I. THE COMMISSION SHOULD DENY LEC REQUESTS TO EXTEND THE WAIVER OF THE CODING DIGIT REQUIREMENT

For the fourth time, LECs have sought extensions of the waiver of the coding digit requirement contained in the Commission's payphone orders.² The LEC requests reflect an expectation by the LECs (which own PSP businesses themselves) that the Commission will accede to their every request while ensuring the bounty of payphone compensation. As the Commission notes, the LEC requests and the APCC motion were wholly unsubstantiated, and therefore subject to denial. The submission of additional data by the LECs should not alter this conclusion.³ While a detailed account of the various LECs' experiences with their vendors and their vendors' equipment may *explain* the delays, it in no way *justifies* such delays. Rather than entertain yet another request for "just a little more time," the Commission should permit the coding digit requirement full effect. To the extent the LECs cannot comply with that

² See *December 31st Order*, ¶ 3 & nn.3-5; Petition for Expedited Temporary Extension of Limited Waiver to Implement Flex ANI by Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell, CC Docket No. 96-128, File No. NSD-L-98-147 (filed Dec. 9, 1998); GTE Service Corp. Petition for Extension of Waiver, CC Docket No. 96-128, File No. NSD-L-98-147 (filed Dec. 10, 1998); Southern New England Telephone Petition for Expedited Waiver, CC Docket No. 96-128, File No. NSD-L-98-147 (filed Dec. 9, 1998).

³ See Letter from Jeffrey B. Thomas of SBC to Anna Gomez, FCC Network Services Division Chief, CC Docket No. 96-128, File No. NSD-L-98-147 (Jan. 11, 1999); Letter from F. Gordon Maxson of GTE to Anna Gomez, FCC Network Services Division Chief, CC Docket No. 96-128, File No. NSD-L-98-147 (Jan. 8, 1999); Letter from Wendy Bluemling of SNET to Anna Gomez, FCC Network Services Division Chief, CC Docket No. 96-128, File No. NSD-L-98-147 (Jan. 8, 1999).

requirement, they will be subject to enforcement actions by the PSPs.⁴ The possibility of such enforcement remains the most effective means of achieving compliance with the Commission's payphone compensation rules.

II. THE COMMISSION SHOULD DENY APCC'S MOTION TO DEFER THE EFFECTIVE DATE OF THE CALL TRACKING VERIFICATION REQUIREMENT

The Commission should deny as wholly unjustified APCC's motion to defer the effective date of the call tracking verification requirement, for failure to state a compelling case for deferral. Nowhere in its motion does APCC explain why the inability of a small number of payphones to transmit the proper coding digits—supplied by the LECs—should short-circuit the Commission's procedural check on proper implementation of the *Payphone Orders*.⁵ Contrary to APCC's suggestion, the act of filing a verification report with the Commission in no way indicates that the Commission has made a determination of full compliance by an IXC. To the contrary, the filing of such verification reports will allow both PSPs *and the Commission* to determine the extent to which IXC tracking and payment activities comport with the Commission's rules. To the extent APCC remains concerned about the content of such reports, it

⁴ While LEC-owned PSPs might not have the same incentives to seek enforcement against their parent LECs, they would nevertheless be denied per-call compensation for failure to transmit the proper coding digits to the IXCs.

⁵ See Motion for Deferral of the Effective Date of the Payphone Order's Call Tracking Verification Requirement, CC Docket No. 96-128, File No. NSD-L-98-148 (filed Dec. 10 1998); *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, First Report & Order*, 11 FCC Rcd. 20541, 20592 (1996).

should urge the Common Carrier Bureau to further establish the form and content of such reports.⁶

III. THE COMMISSION MUST PROHIBIT IXC_s FROM COLLECTING PER-CALL COMPENSATION FROM END USERS WHEN NO SUCH PER-CALL COMPENSATION IS DUE TO PSP_s

To the extent the Commission delays implementation of the per-call compensation obligations of the IXC_s, it should also prohibit the IXC_s from collecting per-call compensation from end users as an illegal windfall. As the Commission is well-aware, numerous IXC_s began collecting per-call compensation as soon as the Commission adopted a per-call compensation rate—regardless of their obligations to pay the PSP_s. IXC_s have collected per-call compensation from end users even while paying per-phone compensation to the PSP_s—at a much lower rate when calculated on a per-call basis—due to the Commission’s waiver of the coding digit requirement.⁷ Moreover, some IXC_s have collected such compensation for all restricted line calls, regardless of whether or not those calls originated from payphones.⁸ Finally, a number of IXC_s have assessed a “payphone surcharge” in excess of the Commission’s per-call compensation rate.⁹

⁶ *See id.*

⁷ As the Commission has noted, the provision of payphone-specific coding digits is a prerequisite to per-call compensation for toll-free and access code calls. *See December 31st Order*, ¶ 3.

⁸ For example, in the past, VoiceNet has assessed an “FCC mandated” payphone surcharge on restricted line calls other than those originating from payphones.

⁹ For example, MCI WorldCom currently assesses its calling card customers a “Payphone Use Charge” of \$0.30 per call.

Such charges are illegitimate, as neither the amount nor the payment itself is necessitated by the Commission's payphone compensation rules. Admittedly, the continuing waivers by the Commission have made it more difficult for IXC's to identify payphone-originated calls, and have increased the complexity of their tracking, billing, and payment of compensation for such calls.¹⁰ These difficulties only underscore the fact that the Commission should deny the LEC requests and the APCC motion. Regardless of the disposition of those requests for relief, however, the Commission should clarify that such IXC practices are prohibited.

¹⁰ See Opposition of MCI WorldCom, CC Docket No. 96-128, at 3-5 (filed Dec. 21, 1998) (opposing LEC requests).

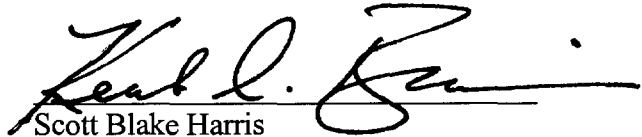
CONCLUSION

For the foregoing reasons, the Commission should deny the request of SBC, SNET, and GTE to extend the waiver of the coding digit requirement. The Commission should also deny APCC's request to defer the effective date of the payphone order's call tracking verification requirement. Finally, the Commission should prohibit the IXC's from collecting per-call compensation from end users where such compensation is not owed to the PSPs.

Respectfully submitted,

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Dated: January 29, 1999

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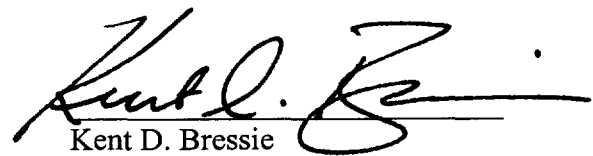
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